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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,764	02/06/2004	Merlin E. Thomsen	FSP0042	5578
29586	7590	09/28/2006	EXAMINER	
FSP LLC P.O. BOX 890 VANCOUVER, WA 98666			THANH, QUANG D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/773,764	Applicant(s) THOMSEN, MERLIN E.	
	Examiner Quang D. Thanh	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to the preliminary amendment filed on 1/18/2005. As directed by the amendment, new claims 13-18 have been added. Thus, claims 1-18 are presently pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Re claims 1 and 5, the limitation "a barrier...coupled to rotate" is unclear (coupled to what structure?) ; there is no structural limitation set forth to support the functional language "to rotate" and it is unclear (to rotate relative to what structure ?)

5. Re claim 2, the limitation "a jet mounted ...passing through holes in discs to which the barrier is coupled" is unclear.

6. Re claim 4, the limitation "further comprising holes" is unclear as to whether these holes are the same holes that are recited in claim 2 or are different holes.

7. Re claim 9, the limitation "rotating barrier" is unclear since there is no structural limitation set forth to support the functional language "rotating" and it is unclear (rotating relative to what structure ?)

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8. Re claims 14 and 17, the limitation “further comprising a control system” is unclear as to whether this control system is the same control system that was recited in claims 13 and 16 or is a different control system; and the limitation “to apply motion” is unclear as to what type of motion ?

9. The rest of the claims are also rejected because they depend on a rejected claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 5, 9, 13-14, 16-17, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Licht et al. (6,428,466).

12. Re claim 1, Licht et al. discloses an apparatus comprising: a frame 17 (fig. 2), a carriage 31 mounted to translate along the frame (fig. 2), water jets 32 (fig. 5); and a barrier (including 61-64 as shown in fig. 5) enclosing the water jets (fig. 2 and 5).

13. Re claim 5, Licht et al. discloses an apparatus comprising: a pad 19; water jets 32 (fig. 2) ; and a barrier coupled to a carriage, the barrier enclosing the water jets (fig. 2 and 5).

14. Re claim 9, Licht et al. discloses a jet massage comprising: a pad 19 (fig. 1) ; a moveable carriage 31 comprising a barrier, and water jets 32 enclosed by the barrier

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(fig. 2); catches 36-37 having holes (openings for draining water, fig. 2, col. 3, lines 59-61) located to collect water from the water jets as the water collects at the bottom of the barrier; a support 62-64 (fig. 5) formed to impart an approximately tubular shape to the barrier (fig. 2).

15. Re claims 13-14, Licht et al. discloses an apparatus comprising a fluid-tight barrier 61, an open table (best seen in fig. 2) over which the fluid-tight barrier is mounted, jets 32 enclosed within the barrier, and a control system 60 to cause the jets to apply fluid under pressure to an interior surface of the barrier as the barrier is translated along the table (col. 3, lines 24-27); to apply motion (along the pulsating movement of the fluid against the barrier, col. 3, lines 24-27) in addition to translation motion to the movable barrier as the movable barrier is translated over the table.

16. Re claims 16-17, Licht et al. discloses an apparatus comprising: an open cushioned table (bed 17 including pad 19) unenclosed by a lid (best seen in fig. 2); a water-tight barrier 61 movably mounted over the open cushioned table; and a control system 60 to cause application of fluid under pressure to an interior surface of the barrier as the barrier is translated along and over the table (col. 3, lines 24-27); to apply motion (along the pulsating movement of the fluid against the barrier, col. 3, lines 24-27) in addition to translation motion to the movable barrier as the movable barrier is translated over the table.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Licht et al. in view of Mutzell. Licht et al. discloses an apparatus having all the features a except that it does not disclose a translation guide system mounted below a surface of the table. However, Mutzell teaches a similar apparatus having a translation guide system 61 that is mounted below the table (fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Licht et al., to include a translation guide system mounted below the table, as suggested and taught by Mutzell, for the purpose of providing means for translating the barrier along the table inside the bottom cabinet.

Allowable Subject Matter

19. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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20. Claims 6-8 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

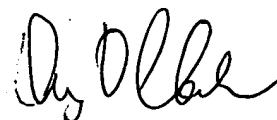
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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QUANG D. THANH
PRIMARY EXAMINER